

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

11 JAVIER ESPINOZA RODRIGUEZ,

12 Petitioner,

13 v.

14 JOHN C. MARSHALL, Warden,

15 Respondent.

Civil No. 08cv1007 H (CAB)

**ORDER SETTING BRIEFING SCHEDULE  
FOR MOTION TO DISMISS  
[Doc. No. 8.]**

16 Javier Espinoza Rodriguez, a state prisoner proceeding *pro se*, has filed a Petition for Writ of  
17 Habeas Corpus pursuant to 28 U.S.C. § 2254. On September 3, 2008, Respondent moved to dismiss the  
18 Petition as untimely. Petitioner shall file his opposition, if any, to the motion no later than September  
19 24, 2008. At the time the opposition is filed, Petitioner shall lodge with the Court any records not  
20 lodged by Respondent which Petitioner believes may be relevant to the Court's determination of the  
21 motion. Unless the Court orders otherwise, Respondent shall not file a reply to Petitioner's opposition  
22 to the motion to dismiss. If the motion is denied, the Court will afford Respondent adequate time to  
23 respond to Petitioner's claims on the merits.

24 **IT IS SO ORDERED.**

25 DATED: September 4, 2008

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**CATHY ANN BENCIVENGO**  
United States Magistrate Judge